



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,418	10/21/2005	Amie Smirthwaite	78104085/N16680	3078
7590 06/01/2007 DeWitt Ross & Stevens Intellectual Property Department, S.C Suite 401 8000 Excelsior Drive, Madison, WI 53717-1914			EXAMINER SCHILLINGER, ANN M	
			ART UNIT 3738	PAPER NUMBER
			MAIL DATE 06/01/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/526,418

Applicant(s)

SMIRTHWAITE ET AL.

Examiner

Ann Schillinger

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/2/2005</u> | 6) <input checked="" type="checkbox"/> Other: <u>Attachments A-C</u> |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4-7, 9, 11, 13, 17, and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Butaric et al. (US Pub. No. 2002/0058984). Butaric et al. discloses the limitations of claim 1 as shown in any of Attachments A, B, or C.

Butaric et al. discloses the limitations of claim 4 as shown in Figure 2, in view of Attachment B.

Butaric et al. discloses the limitations of claim 5 as shown in Figure 2, in view of Attachment A.

Butaric et al. discloses the following of claim 6: the stent graft of claim 1 wherein the first stent section comprises a plurality of circumferential hoops (11 or 13) of reinforcing material disposed around the tubular graft.

Butaric et al. discloses the following of claim 7: the stent graft of claim 1 wherein the second stent section comprises at least one circumferential hoop (11 or 13) of reinforcing material which oscillates about a line running circumferentially around the longitudinal axis of the tubular graft (elements 11 and 13 would oscillate with respect to an arbitrary line drawn around the middle circumference of the stent).

Art Unit: 3738

Butaric et al. discloses the limitations of claim 9 as shown in Attachment B where the second section has 6 peaks.

Butaric et al. discloses the limitations of claim 11 as shown in any of Attachments A, B, and C; and in paragraphs 0016 and 0050.

Butaric et al. discloses the following of claim 13: a stent graft for implantation in a body lumen comprising two or more tubular stent sections connected in series along a common axis, wherein: a. at least one of the stent sections is radially expandable from a compressed state, wherein the stent section has decreased diameter when in its compressed state (paragraph 0087); and b. each stent section includes patterned reinforcing material, wherein the stent sections have both: (1) different diameters, and (2) different reinforcing material patterns, when the stent sections are fully expanded (see Attachment C).

Butaric et al. discloses the limitations of claim 16 as shown in Attachment C.

Butaric et al. discloses the following of claim 17: the stent graft of claim 13 wherein at least one of the stent sections includes a series of hoops (13) of reinforcing material, each hoop extending circumferentially in a plane about the stent section.

Butaric et al. discloses the following of claim 18: the stent graft of claim 17 wherein at least one of the stent sections includes an oscillating hoop (13) of reinforcing material extending circumferentially about the stent section, wherein the oscillations extend in a direction parallel to the longitudinal axis of the stent section (see Figure 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3738

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 3, 8, 10, 12, 14, 15, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Butaric et al. Regarding claim 10, Butaric et al. discloses the spacer as shown in Attachment C. And regarding claim 20, the top row hoop labeled 13 has 6 peaks, meeting this claim's limitations. Butaric et al. discloses the claimed invention except for the relative measurement values described by the Applicant in these claims. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use these value ranges, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann Schillinger whose telephone number is (571) 272-6652. The examiner can normally be reached on Mon. thru Fri. 9 a.m. to 4 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3738

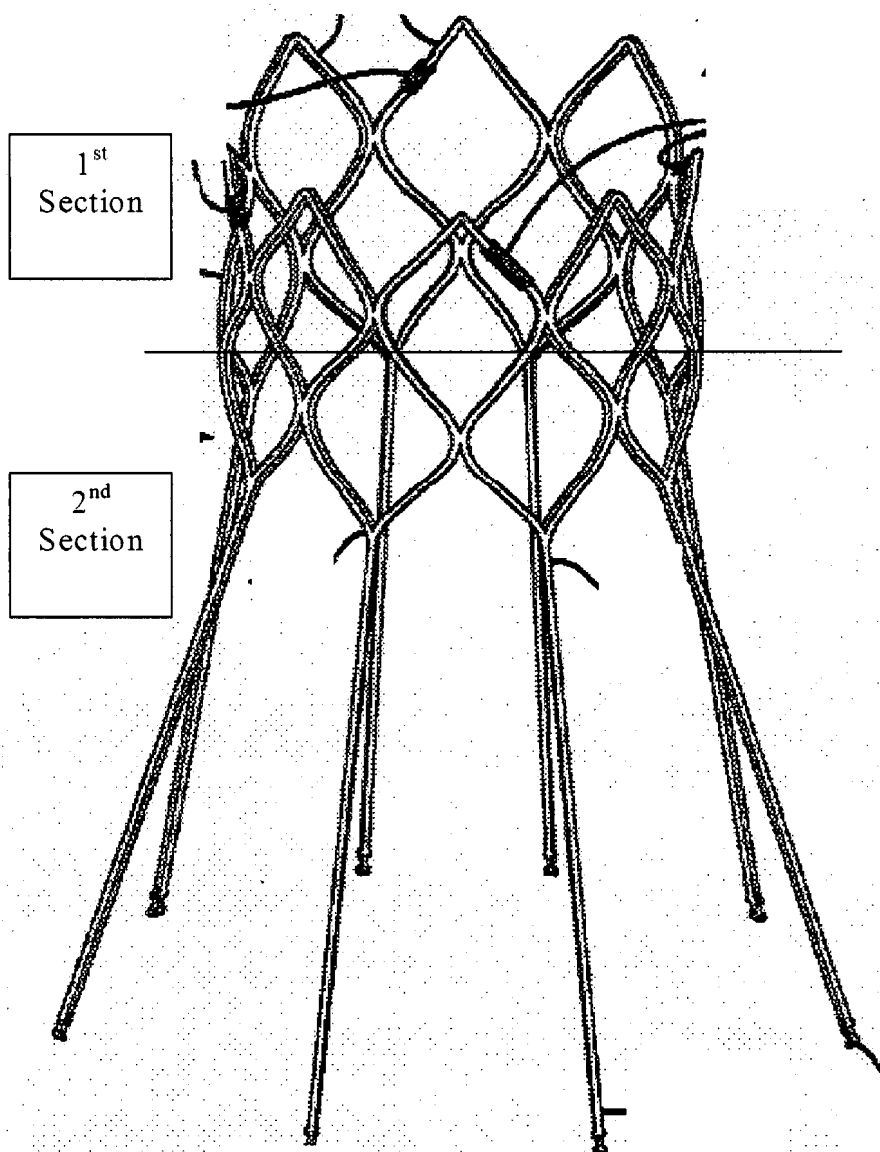
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ann Schillinger
May 24, 2007

A. Stewart
ALVIN J. STEWART
PRIMARY EXAMINER

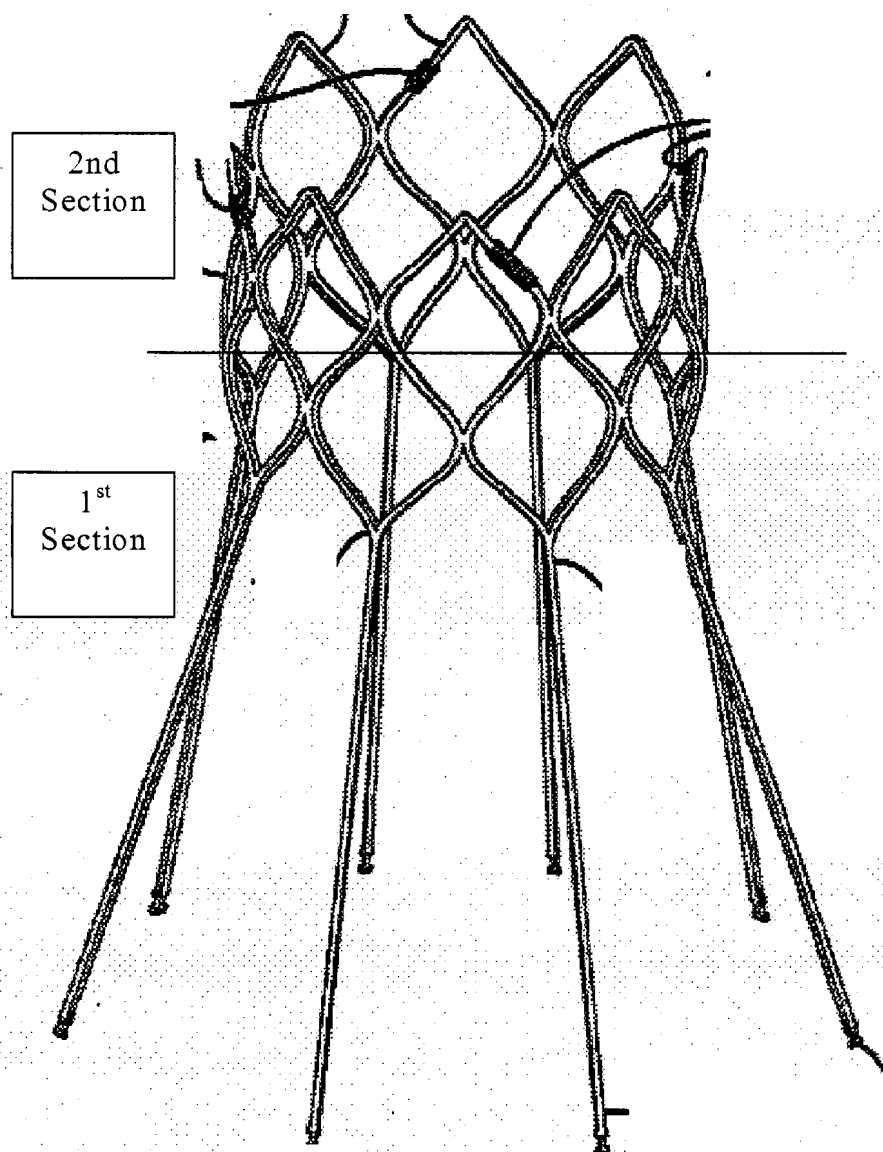
Art Unit: 3738

Attachment A



Art Unit: 3738

Attachment B



Art Unit: 3738

Attachment C

